

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERIKA LEE,

22-CV-8618 (DEH) (RWL)

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: **REPORT AND RECOMMENDATION**
: **AMENDMENT**
: **TO HON. DALE E. HO**
:
:
:

- against -

DELTA AIR LINES, INC., DAVID NEEDHAM,
and JOSE ROSADO,

Defendants.

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ROBERT W. LEHRBURGER, United States Magistrate Judge.

On July 29, 2024, the Court issued a Report and Recommendation (Dkt. 96) addressing Defendant Delta's pending motion to dismiss. On page 57 of the Report and Recommendation, the Court recommended dismissing the case as against the two individual defendants on the basis that no affidavits of service for them appeared in the record. That statement was incorrect. (See Dkt. 62-63 and 73-74.) There are, however, questions as to the veracity of the affidavits and the efficacy of service not sufficiently addressed by the parties' briefing. Accordingly, the Court withdraws the portion at pages 57-58 of the Report and Recommendation with the heading "Individual Defendants Needham and Rosado," and withdraws the recommendation to dismiss the individual Defendants Needham and Rosado at this time.

Deadline For Filing Objections And Preserving Appeal

Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days to file written objections to this Report and Recommendation. Any party shall have fourteen (14) days to file a

written response to the other party's objections. Any such objections and responses shall be filed with the Clerk of the Court, with courtesy copies delivered to the Chambers of the Honorable Dale E. Ho, United States Courthouse, 40 Foley Square, New York, New York 10007, and to the Chambers of the undersigned, at United States Courthouse, 500 Pearl Street, New York, New York 10007. Any request for an extension of time for filing objections must be addressed to Judge Ho. **Failure to file timely objections will result in a waiver of the right to object and will preclude appellate review.**

Respectfully submitted,



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: August 29, 2024
New York, New York

Copies transmitted to all counsel of record.